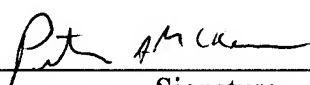


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q77527	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/748,167	December 31, 2003	
	First Named Inventor		
	Dong-shin JUNG		
	Art Unit	Examiner	
	2173	Stephen D. Alvesteffer	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 38,551</p>			
		 Signature	
		Peter A. McKenna Typed or printed name	
		(202) 293-7060 Telephone number	
		March 11, 2008 Date	

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q77527

Dong-shin JUNG, et al.

Appln. No.: 10/748,167

Group Art Unit: 2173

Confirmation No.: 6951

Examiner: Stephen D. Alvesteffer

Filed: December 31, 2003

For: APPARATUS, SYSTEM AND METHOD FOR PROVIDING INFORMATION ON
OBJECTS INCLUDED IN CONTENT

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 11, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

The Examiner has rejected claims 1-27 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,918,012 to Astiz et al. (hereinafter "Astiz"). Applicants submit that the claims are patentable.

Claim 1

For example, claim 1 recites an apparatus for providing object-in-content information, managed by an object-in-content information managing device. The apparatus includes a central control unit and an object information interface unit. The central control unit is operable to

receive content and supply basic content information of the content, and the object information interface unit is operable to transmit a request message including the basic content information to the object-in-content information managing device, receive a response message including the object-in-content information corresponding to the basic content information from the object-in-content information managing device, and transmit the object-in-content information included in the response message to the central control unit. Additionally, the content received by the control unit is not received through the object-in-content information managing device.

On page 2 of the Non-Final Office Action dated April 12, 2007, the Examiner contends that Astiz's HTTP server 33 corresponds to the claimed object-in-content information managing device. The Examiner also implies that Astiz's video corresponds to the claimed content. However, Astiz discloses that the video data file is received by the browser 32 from the HTTP server 33 (col. 6, lines 39-41). Thus, Astiz does not teach that the received content (video data file) is not received through the alleged object-in-content information managing device 33, as required by claim 1.

In the Final Office Action dated October 11, 2007, the Examiner responds by asserting that Astiz's invention is inherently capable of downloading the BTV data file from a different HTTP server from the HTTP server where the video content is stored, citing col. 6, lines 33-45.

However, the cited section of Astiz discloses that when the video data file (referred to as the BTV MIME file by the Examiner) is received by the browser 32 from the HTTP server 33, the browser 32 recognizes from the MIME that it needs to open the BTV viewer 31 and download the BTV data file to the viewer 31 for display. Because this section does not specify

that the BTV data file is downloaded from the same HTTP server 33 that the video data file is received from, the Examiner contends that they are inherently downloaded from different HTTP servers.

However, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). See MPEP §2112.IV (emphasis in original). Furthermore, to establish inherency, the extrinsic evidence must make clear the missing material is necessarily present in the reference. "Inherency, however, may not be established by probabilities or possibilities." (M.P.E.P. § 2112.IV at page 2100-57). Here, the Examiner improperly relies on the mere possibility that the BTV MIME file and the BTV data file are downloaded from separate servers.

Moreover, Astiz discloses that the video data file is received from the HTTP server 33 shown in Figure 3 (See col. 6, lines 5-11). Figure 3 also shows that the (x, y, t) data is sent to this particular HTTP server 33. Thus, Astiz does not teach or suggest that the received content (video data file) is not received through the alleged object-in-content information managing device 33 to which a request message is sent including the alleged basic content information ((x, y, t) data).

In the Advisory Action dated January 30, 2008, the Examiner reasserts that Astiz's HTTP server 33 corresponds to the claimed object-in-content information managing device. The Examiner further asserts that Astiz teaches that when a user clicks on a "hot spot" in a video

presentation, information about the selection is sent to the HTTP server 33 where it is determined which internet address to send the user to. The Examiner alleges that the internet address corresponds to the claimed received content and that a person of ordinary skill in the art would recognize that such an internet address is capable of pointing to a different HTTP server.

However, the mere assertion that an internet address is capable of pointing to a different HTTP server is not sufficient to support an anticipation rejection. Specifically, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, as previously noted, “Inherency...may not be established by probabilities or possibilities.” (M.P.E.P. § 2112.IV at page 2100-57). Clearly, the Examiner’s assertion regarding the capabilities of Astiz’s system known to one of skill in the art is based on mere possibilities. Thus, Astiz does not explicitly or inherently teach that the alleged received content (video data file) is not received through the alleged object-in-content information managing device 33, as required by claim 1. Accordingly, the claim cannot be anticipated by Astiz.

Moreover, as noted above, Astiz discloses that the video data file is received from the HTTP server 33 shown in Figure 3 (See col. 6, lines 5-11). Figure 3 also shows that the (x, y, t) data is sent to this HTTP server 33. Clearly, Astiz suggests the opposite of the Examiner’s assertion that the video data is received from a different HTTP server 33.

In view of the foregoing, Applicants submit that claim 1 is not anticipated by Astiz. Applicants also submit that claim 4 is patentable at least by virtue of its dependency on claim 1.

Claim 2

Independent claim 2 recites that the object information transmitting unit is operable to transmit the response message to a central control unit, wherein the object transmitting unit does not transmit the content to the central control unit. In rejecting claim 2, the Examiner asserts a similar rationale as that set forth in the rejection of claim 1.

Applicants submit that the Examiner's viewpoint is inaccurate at least for reasons analogous to those discussed above regarding claim 1. Thus, Applicants submit that claim 2 is patentable. Applicants also submit that claims 3, 5, and 6, being dependent on claim 2, are patentable at least by virtue of their dependency.

Claims 7, 12, 15, 20, and 25

Independent claims 7, 12, 15, 20, and 25 recite features similar to those discussed above in conjunction with claim 1. Thus, Applicants submit that these claims are patentable at least for reasons analogous to those discussed above regarding claim 1. Applicants also submit that claims 3, 5, 6, 8-10, 13, 14, 16, 18, 19, and 21-24, being dependent on one of claims 2, 7, 12, 15, 20, and 25, are patentable at least by virtue of their dependency.

Respectfully submitted,



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CUSTOMER NUMBER

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